

REMARKS

Applicant hereby requests entry of the attached amendments, and consideration of the Affidavit of James Cliver as noted herein.

A Request for Continued Examination has been filed concurrently herewith in order to facilitate consideration of the attached Amendments and Remarks.

The Examiner's indication that Claims 1, 22 and 38 had been amended without identifying the amended subject matter is noted. A review of the file indicated that those amendments not identified were made previously in the Amendment filed December 2, 2002, but those changes were apparently not identified in the clean copy of claims included with the Response filed September 8, 2003. In order to clarity the record, those changes have been included in this Response as if they are new amendments being made at this time. It is believed that this should overcome the objections under 37 C.F.R. 1.121(c).

The courtesy and consideration of Examiner Kumar and Examiner Einsmann during the interview with Applicant's representative and inventor James Cliver on May 13, 2004 is acknowledged with appreciation. During the interview, the amendments included herein were discussed with the Examiners, and it was agreed that these amendments would place the application in condition for allowance. Specifically, it was concluded that the claims as amended would be allowable over all of the prior art of record, in addition to U.S. Patent No. 5,066,535 to Christie, which was applied in connection with examination of the product claims in divisional application Serial No. 10/396,899. (Incidentally, claims 43-51, which were previously withdrawn from consideration following a restriction requirement, have now been officially canceled since they are pending in this divisional application.)

Claims 1-8, 17, 20, 22, 25-26, 28, 30, 34, and 36-37 were rejected under 35 USC 103(a) as being unpatentable over Crenshaw (US 5,861,044) in further view of

Bouwknegt et al (US 4,859,207) for the reasons discussed in paper no. 7. During the interview, it was agreed that Crenshaw fails to disclose the invention as currently claimed. Specifically, it was discussed that Crenshaw fails to disclose or suggest the exposure of substantially the entire fabric (i.e. substantially the entire planar dimension, or in other words, substantially the entire fabric surface) to a dye, rather, Crenshaw describes a process of carving a pattern on a pile fabric by printing a liquid repellent on a pile fabric in a pattern, finishing the fabric, rewetting the fabric with a liquid, and then exposing the fabric to a pressurized heated gas, which selectively carves the dry areas printed with the liquid repellent and leaving the wetted areas protected and uncarved (Col. 1, lines 21-30.) The portion of the patent relied upon in the rejection is the recitation in Claim 6 of the Crenshaw patent, which describes a multi-step process of applying a first chemical solution comprising a liquid repellent to a surface of the web of fabric, applying a second chemical solution comprising a dye to the surface of the fabric, applying liquid to the fabric and directing pressurized heated gas, to carve the surface of the fabric where the liquid repellent was applied. Reference to the specification shows that this claim is directed to the process described in Fig. 3, which uses a series of screen print heads to create a pattern. As set forth in Col. 3, line 50 to Col. 4, line 26, each of the chemical applications is performed in a pattern. Crenshaw specifically requires the use of pressurized heated air to modify the treated fabric, and achieves the effect by partially melting the fiber. Bouwknegt teaches the use of a chemical reaction to block the dyeing of polyamide fabrics. It is the *chemical bonding* of chemical to fabric that allows the patterning.

In contrast, the instant invention is directed to a process for creating patterned fabrics using dye processes previously used for dyeing solid fabrics. In other words,

substantially the entire fabric surface is exposed to the dye, while in Crenshaw, only a patterned portion of the fabric is exposed to the dye, which may or may not correspond with the patterned areas that have been treated with the liquid repellent. The process of the invention is not reliant on a chemical reaction to achieve the patterned effect; rather it utilizes a novel physical bonding mechanism that prevents the treated regions from becoming fully saturated, in combination with the step of exposing substantially the entire fabric to the dye. Furthermore, Bouwknegt is limited to polyamide fabrics and only allows the use of anionic dyestuffs, while the process of the invention is not limited in these ways. There is no disclosure or suggestion in the references, taken alone or in combination, of a process such as that set forth in the claims. Therefore, it is respectfully requested that the rejection be withdrawn.

Claims 21 and 35 were rejected under 35 USC 103(a) as unpatentable over Crenshaw and Bouwknegt et al. as applied to claims 1-8, 17, 20, 22, 25-26, 28, 30, 34, and 36-37 and further in view of Hauser et al. (US 5,667,533) for the reasons set forth in paper no. 7. Claims 3, 4, 6, 9, 14, 16, 27, 29 and 31 were rejected under 35 USC 103(a) as being unpatentable over Crenshaw and Bouwknegt et al. as applied to claims 1-8, 17, 20, 22, 25-26, 28, 30, 34, and 36-37 and further in view of Egli et al (US 3,743,477) also as set forth in paper no. 7. Claims 10-13, 15, 18-19, 23-24, 32-33 and 38-42 were rejected under 35 USC 103(a) as being unpatentable over Crenshaw and Bouwknegt et al. as applied to claims 1-8, 17, 20, 22, 25-26, 28, 30, 34, and 36-37 and further in view of Fadler nee Jack et al. (US 4,023,925.) It is believed that these claims are allowable for the reasons set forth with respect to the independent claims and discussed in the interview.

In addition, Applicants have submitted herewith an Affidavit under Section 1.132

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from James D. Cliver, an inventor in this application. (A duplicate affidavit is being filed in connection with the divisional application, and the Examiner requested its inclusion in the instant application for its relation to the Christie patent. However, it is noted that no rejections based on the Christie patent have been made in connection with this application, nor has there been any assertion that the Christie patent impacts the patentability of the instant application.) In this affidavit, Mr. Cliver describes the comparative testing he did between a substrate processed according to the instant invention, as compared with one processed according to commonly-assigned U.S. Patent No. 5,066,535 to Christie, and to the same substrate dyed as a control fabric. As illustrated, the fabrics processed according to the method described in the instant application did not have the strength loss experienced by the fabrics processed according to the process described in the Christie patent.

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CONCLUSION

Applicants respectfully submit that the claims are in condition for allowance, and a notice to that effect is earnestly solicited. Should the Examiner find that any issues remain outstanding following consideration of this Response, he/she is invited to telephone the undersigned in the interest of resolving such matters in an expedient manner.

Fee Authorization: In the event that there are additional fees associated with the submission of these papers, Applicant hereby authorizes the Commissioner to withdraw those fees from our Deposit Account No. 04-0500.

Extension of Time: In the event that additional time is required to have the papers submitted herewith for the above referenced application to be considered timely, Applicant hereby petitions for any additional time required to make these papers timely and authorization is hereby granted to withdraw any additional fees necessary for this additional time from our Deposit Account No. 04-0500.

Respectfully submitted,



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